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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3330 OF 2004
IN
FIRST APPEAL NO.472 OF 2005
IN
L.C. SUIT NO.6978 OF 1994

R.R. Paints Pvt. Ltd. ...Applicant
V/s.
The Municipal Corporation of Greater Bombay ...Respondent

Mr.Bharat Joshi, Advocate, for the Applicant.

Ms.Nisha Dabhade, Advocate, for the Respondent-B.M.C.

CORAM : ABHAY S. OKA, J.
DATE : 16TH OCTOBER, 2007.

P.C. :

1. Heard Advocates appearing for the parties. Appeal has been admitted for final hearing and admittedly there was an interim protection in favour of the applicant during the pendency of the Suit.

2. The respondent-Corporation has annexed a hand-sketch to the notice under Section 222 of the Bombay Municipal Corporation Act, 1888. The said sketch shows that the respondents were desirous of constructing a drain, starting point of which will be from Bhattipada Cross Road. The said drain is proposed to be taken through the suit property upto culvert

below L.B.S. Marg. Admittedly construction of drain in the portion between Bhattipada Cross Road and the suit property has not been undertaken. Therefore, as of today, the respondent-Corporation will have to maintain status-quo. As and when the respondent-Corporation proposes to undertake construction of drain starting from Bhattipada Cross Road, the respondent-Corporation can always apply for modification of this order.

3. Hence the Civil Application is disposed of by directing that till the final disposal of the Appeal no construction shall be carried out by the respondent-Corporation on the suit property on the basis of notice dated 20th May, 1994 issued under Section 222 of the Bombay Municipal Corporation Act, 1888. However, it will be open for the respondent-Corporation to apply for modification of this order as indicated in earler part of this order.

4. The Civil Application is disposed of accordingly.

5. Hearing of the First Appeal is expedited.

[ABHAY S. OKA, J.]